UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,569	01/05/2004	David Thomas	VIGN1350-1	3583

44654 7590 10/11/2006	EXAMINER
SPRINKLE IP LAW GROUP	THAI, TUAN V
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	ART UNIT	PAPER NUMBER
SUITE 408	2186	
AUSTIN, TX 78705		

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/751,569	THOMAS ET AL.
	Examiner	**Art Unit**	
	Tuan V. Thai	2186	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 November 2005</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>46-113</u> is/are pending in the application.

    4a) Of the above claim(s) <u>1-45</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>46-113</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>05 January 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>01/05/04 & 04/01/05</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Part III   DETAILED ACTION

Specification

1.   This office action responsive to communication filed

11/21/2005. This application is continuation of 10/034,712; now

patent number 6,687,793. Claims 46-113 are presented for

examination. Claims 1-45 have been canceled.

2.   Applicant is reminded of the duty to fully disclose

information under 37 CFR 1.56.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35

U.S.C. 112:

> The specification shall conclude with one or more claims particularly
> pointing out and distinctly claiming the subject matter which the
> Applicant regards as his invention

4.   Claims 59, 62-63 are rejected under 35 U.S.C. § 112, second

paragraph, as being indefinite for failing to particularly point

out and distinctly claim the subject matter which applicant

regards as the invention.

As per claim 59, the recitation of "or" (line 1) is a

relative term that renders the claim indefinite.

AS per claims 62-63, the recitation of "The computer program

product" should be changed to read "The method". Correction is

required.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs

of 35 U.S.C. § 102 that form the basis for the rejections under

this section made in this Office action:

A person shall be entitled to a patent unless --

(e)   the invention was described in (1) an application for
       patent, published under section 122(b), by another filed in
       the United States before the invention by the applicant for
       patent or (2) a patent granted on an application for patent
       by another filed in the United States before the invention
       by the applicant for patent, except that an international
       application filed under the treaty defined in section 351(a)
       shall have the effects for purposes of this subsection of an
       application filed in the United States only if the
       international application designated the United States and
       was published under Article 21(2) of such treaty in the
       English language.

6.   Claims 46-51, 58-63, 70-77, 86-91 and 98-105 are rejected

under 35 U.S.C. § 102(e) as being anticipated by Todd et al.,

hereinafter Todd (USPN: 6,742,059);

      As per claim 46, Todd discloses the invention as claimed

including a method for managing a cache comprising polling a

cached asset according to a first schedule to determine if said

cached asset has been active within a first period of time; if

said cached asset has not been active within said first period

of time; assigning said cached asset a new status, and polling

said cached asset according to a second schedule corresponding

to the new status to determine if said cached asset has been

active within a second period of time; for example, Todd clearly

discloses when a "request for changes" object is received by the

server from a client application it can contain a timestamp

indicating when the last request for changes was completed. The

server agent can then compare this "request for changes"

timestamp against each separate timestamp associated

respectively with each one of the software objects in the

agent's cache. If the timestamp comparison shows a

sufficiently-long period of time from the prior request for

changes with respect to any one of the objects, then that object

is permitted to provide new information, if any. This

comparison is done on an object-by-object basis until all of the

objects in the set are polled or compared to permit a

determination of which objects in the set have changed; noting

that in polling all of the objects in the set, Todd clearly

teaches polling objects in different schedule including first

and second schedules as being claimed (e.g. see column 5, lines

54-67).

As per claim 47, wherein in the step of polling said cached

asset according to said first schedule further comprises

processing a timestamp associated with said cached asset (e.g.

see column 5, lines 57 et seq.).

As per claim 48, wherein said timestamp further comprises a

last accessed timestamp (e.g. see column 5, lines 51-53).

As per claim 49, wherein said timestamp further comprises a last modified timestamp (e.g. see column 5, lines 54-56).

As per claims 50 and 51, Todd discloses polling according to the first schedule occurs at a greater frequency than polling according to the second schedule and wherein said second period of time is longer than said first period of time (e.g. see column 5, lines 60 et seq.).

As per claim 58; Todd discloses the invention as claimed including a method for managing a cache comprising storing an asset in a cache to create a cached asset; and polling the cached asset with a frequency dependent on the relative activity of the cached asset (e.g. see column 5, lines 48 et seq.; particularly p63-67).

As per claim 59, Todd discloses wherein the frequency increases or decreases as the relative activity of the cached asset increases or decreases since Todd teaches that if the timestamp comparison shows a sufficiently-long period of time from the prior request for changes with respect to any one of the objects, then that object is permitted to provide new information, noting that the frequency increases as cached asset activity increases with shorter timestamp indication (e.g. see column 5, lines 60 et seq.);

As per claim 60, polling the cached asset with a first

frequency corresponding to a first status of the cached asset;

and polling the cached asset with a second frequency

corresponding to a second status of the cached asset,

wherein the first status and the second status are based on the

relative activity of the cached asset is taught by Todd as being

equivalent to each object in the set has an associated timestamp

(e.g. see column 5, lines 51 et seq.).

As per claim 61, wherein polling the cached asset further

comprises processing a timestamp associated with the cached asset

(e.g. see column 5, lines 51 et seq.).

As per claims 62 and 63, wherein said timestamp further

comprises a last accessed/modified timestamp (e.g. see column 5,

line 53).

As per claim 70, Todd discloses the invention as claimed

including a method for managing a cache comprising assigning a

cached asset a first status, polling the cached asset according

to a first schedule corresponding to the first status, assigning

the cached asset a second status, and polling the cached asset

according to a second schedule corresponding to the second

status; for example, Todd clearly discloses when a "request for

changes" object is received by the server from a client

application it can contain a timestamp indicating when the last

request for changes was completed. The server agent can then

compare this "request for changes" timestamp against each

separate timestamp associated respectively with each one of the
software objects in the agent's cache. If the timestamp
comparison shows a sufficiently-long period of time from the
prior request for changes with respect to any one of the
objects, then that object is permitted to provide new
information, if any. This comparison is done on an object-by-
object basis until all of the objects in the set are polled or
compared to permit a determination of which objects in the set
have changed; noting that in polling all of the objects in the
set, Todd clearly teaches polling objects in different schedule
including first and second schedules as being claimed (e.g. see
column 5, lines 54-67).

As per claim 71, Todd discloses polling the cached asset
according to a third schedule corresponding to a third status is
taught by Todd since Todd discloses polling ALL of the objects in
the set for the comparison operation (e.g. see column 5, lines
63-67).

As per claim 72, Todd discloses polling the cached asset
according to the first schedule further comprises polling the
cached asset according to the first schedule for a first period
of time (e.g. see column 5, lines 65-66).

As per claim 73, Todd discloses assigning the cached asset
the second status if the cached asset has not been active within
the first period of time as being equivalent to timestamp which

indicated zero-time-accessed that known to be embedded in system
of Todd since each object has an associated timestamp (e.g. see
column 5, lines 51 et seq.).

As per claim 74, wherein polling according to the first
schedule occurs at a greater frequency than polling according to
the second schedule (e.g. see column 5, lines 60 et seq.).

As per claim 75, wherein polling according to said first
schedule and polling according to said second schedule further
comprise processing a timestamp associated with said cached asset
(e.g. see column 5, lines 51 et seq.).

As per claims 76 and 77, wherein said timestamp further
comprises a last accessed timestamp (e.g. see column 5, lines 51-
53).

As per claim 86, see arguments with respect to claims 46, 58
and 70; noting that polling the asset with a frequency dependent
on the relative activity of the asset is taught by Todd since
Todd noting that in polling all of the objects in the set, Todd
clearly teaches polling objects in different schedule including
first and second schedules as being claimed (e.g. see column 5,
lines 54-67).

As per claim 87, Todd discloses wherein the frequency
increases or decreases as the relative activity of the asset
increases or decreases since Todd teaches that if the timestamp
comparison shows a sufficiently-long period of time from the

prior request for changes with respect to any one of the objects, then that object is permitted to provide new information, noting that the frequency increases as cached asset activity increases with shorter timestamp indication (e.g. see column 5, lines 60 et seq.).

As per claim 88, polling the asset with a first frequency corresponding to a first status of the asset, and polling the asset with a second frequency corresponding to a second status of the asset; wherein the first status and the second status are based on the relative activity of the asset is taught by Todd as being equivalent to each object in the set has an associated timestamp (e.g. see column 5, lines 51 et seq.).

As per claim 89, wherein polling the asset further comprises processing a timestamp associated with the asset (e.g. see column 5, lines 51 et seq.).

As per claims 90 and 91, wherein said timestamp further comprises a last accessed/modified timestamp (e.g. see column 5, line 53).

As per claim 98; Todd discloses the invention as claims including a method for managing assets comprising assigning an asset a first status, polling the asset according to a first schedule corresponding to the first status; assigning the asset a second status, and polling the asset according to a second schedule corresponding to the second status; for example, Todd

clearly discloses when a "request for changes" object is

received by the server from a client application it can contain

a timestamp indicating when the last request for changes was

completed. The server agent can then compare this "request for

changes" timestamp against each separate timestamp associated

respectively with each one of the software objects in the

agent's cache. If the timestamp comparison shows a

sufficiently-long period of time from the prior request for

changes with respect to any one of the objects, then that object

is permitted to provide new information, if any. This

comparison is done on an object-by-object basis until all of the

objects in the set are polled or compared to permit a

determination of which objects in the set have changed; noting

that in polling all of the objects in the set, Todd clearly

teaches polling objects in different schedule including first

and second schedules as being claimed (e.g. see column 5, lines

54-67).

As per claim 99, polling the asset according to a third

schedule corresponding to a third status is taught by Todd since

Todd discloses polling ALL of the objects in the set for the

comparison operation (e.g. see column 5, lines 63-67).

As per claim 100, polling the asset according to the first

schedule further comprises polling the asset according to the

first schedule for a first period of time (e.g. see column 5,

lines 65-66).

As per claim 101, Todd discloses assigning the asset the
second status if the asset has not been active within the first
period of time as being equivalent to timestamp which indicated
zero-time-accessed that known to be embedded in system of Todd
since each object has an associated timestamp (e.g. see column 5,
lines 51 et seq.).

As per claim 102, wherein polling according to the first
schedule occurs at a greater frequency than polling according to
the second schedule (e.g. see column 5, lines 60 et seq.).

As per claim 103, wherein polling according to said first
schedule and polling according to said second schedule further
comprise processing a timestamp associated with said asset(e.g.
see column 5, lines 51 et seq.).

As per claims 104 and 105, wherein said timestamp further
comprises a last accessed/modified timestamp (e.g. see column 5,
line 53).

Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms
the basis for all obviousness rejections set forth in this Office
action:

(a) A patent may not be obtained though the invention is not
     identically disclosed or described as set forth in section

102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 52-57, 64-69, 78-85, 92-97 and 106-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Todd et al., hereinafter Todd (USPN: 6,742,059).

As per claims 52-57; see arguments with respect to claims 46-51 respectively. Todd discloses the invention as claimed, Todd however does not particularly disclose a computer-readable medium encoded a computer instruction for performing the steps as being claimed in claims 46-51. However, one of ordinary skill in the art would have recognized that computer readable medium (i.e., floppy, cd-rom, etc.) carrying computer-executable instructions for implementing a method, because it would facilitate the transporting and installing of the method on other systems, is generally well-known in the art. For example, a copy of the Microsoft Windows operating system can be found on a cd-rom from which Windows can be installed onto other systems, which is a lot easier that running a long cable or hand typing the software onto another system. Therefore, it would have been obvious to put Todd's program on a computer readable medium, because it would facilitate the transporting, installing and implementing of Todd's program on other systems.

As per claims 64-69; they encompass the same scope of invention as to that of claims 58-63. See arguments with respect to claims 58-63 and 52-27 as being detailed above.

As per claims 78-85; they encompass the same scope of invention as to that of claims 70-77. See arguments with respect to claims 70-77 and 52-27 as being detailed above.

As per claims 92-97; they encompass the same scope of invention as to that of claims 86-91. See arguments with respect to claims 86-91 and 52-27 as being detailed above.

As per claims 106-113; they encompass the same scope of invention as to that of claims 98-105. See arguments with respect to claims 98-105 and 52-27 as being detailed above.

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
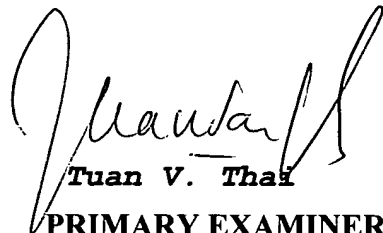

10.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan V. Thai whose telephone number is (571)-272-41287. The examiner can normally be reached from 6:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mathew M. Kim can be reached on (571)-272-4182. The fax phone number for the

organization where this application or proceeding is assigned is
571-273-8300. Information regarding the status of an application
may be obtained from the Patent Application Information Retrieval
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see http://pair-direct.uspto.gov. Should you have questions on
access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

TVT/September 21, 2006

Tuan V. Thai
PRIMARY EXAMINER
Group 2100